

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SHAWN DRUMGOLD,
Plaintiff

v

TIMOTHY CALLAHAN, ET AL.
Defendant(s)

C.A. NO. 04-11193NG

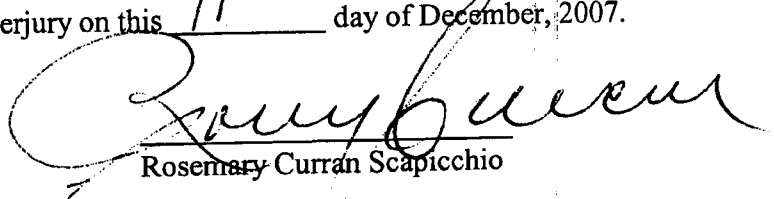
AFFIDAVIT OF ROSEMARY SCAPICCHIO, ESQ.

1. I, Rosemary Scapicchio, am counsel for the Plaintiff in the above entitled matter.
2. I filed the Complaint in this action on June 30, 2004 with co-counsel Stephen Hrones.
3. Attorney Hrones and I had agreed that Attorney Hrones would primarily be responsible for the pleadings in this action.
4. In the spring of 2005, the decision was made to change co-counsel in this case. I began to talk to Attorney Michael W. Reilly in late April or early May about his filing an Appearance in this action.
5. In early May I informed Attorney Hrones that Attorney Reilly would be filing as a successor co-counsel.
6. Discussions continued between Attorney Hrones, Attorney Reilly and myself. It was not until June 13, 2005 that Attorney Reilly filed his Appearance. At that time Attorney Reilly and I agreed that Attorney Reilly would be primarily responsible for pleadings in this action.
7. I am now aware, upon review of the docket, that the time for filing a Motion to

Substitute in response to the Suggestion of Death by Paul Murphy expired on June 1, 2005, I accepted my responsibility as counsel of record to comply with the requirements under Fed.R.Civ.P. 25. It appears, however, that the failure to file arose from excusable neglect when appropriate attention was not paid because the Plaintiff was in process of transitioning from one attorney to another attorney.

8. In April of 2006 Attorney White filed his Appearance on behalf of Patricia A. Murphy, as executrix of the estate. Since April of 2006, Attorney White has continually and repeatedly represented himself as representing "Patricia A. Murphy, as executrix of the estate of Paul Murphy". Although I now know that in fact Patricia A. Murphy was never substituted as party, it was my belief based upon multiple written representations by Attorney White, that Patricia A. Murphy had been substituted for Paul Murphy.

Signed under pains and penalties of perjury on this 19th day of December, 2007.


Rosemary Curran Scapicchio